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| 10/767,005      | 01/28/2004  | Neal H. Rothenbuhler | ROTH122202          | 5031             |

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EXAMINER

ELDRED, JOHN W

ART UNIT PAPER NUMBER

3644

DATE MAILED: 10/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/767,005

Applicant(s)

ROTHENBUHLER

Examiner

J. Woodrow Eldred

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 6-12 and 14 is/are rejected.
- 7) ☒ Claim(s) 2-5, 13, 15 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_

### DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 10, and 11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hudziak.

See especially Figures 1 and 2. Note that element 18 anticipates fastening assembly that restrains the ends of the two plates from moving apart upon an impact when the structure is placed on the ground as an A-shaped structure. Element 14 anticipates a handle positioned within proximity to the top of the structure. Note that the “field apparatus” being protected is anticipated by the means for firing by the soldier disclose by Hudziak.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hudziak in view of Wallace.

Hudziak discloses an armor structure comprising substantially all claimed elements including two hinged armor plates, fastening means between the outer ends of the plates to maintain the shape of the structure, and handle means. Hudziak fails to show the fastener being a rigid or a plate element. Wallace teaches that it is known to use a rigid plate as a fastening means between two hinged armor plates. See especially Figure 2. Motivation to combine is the mere substitution of different fastening means in order to a different level of performance from the structure. To employ the teachings of Wallace on the structure of Hudziak and have a plate as the fastening means is considered to have been obvious to one having ordinary skill in the art.

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5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hudziak in view of Sanders, Jr.

Hudziak discloses an armor structure comprising substantially all claimed elements including two hinged armor plates, fastening means between the outer ends of the plates to maintain the shape of the structure, and handle means. Hudziak fails to show the armor plates being formed of aluminum. Sanders, Jr. teaches that it is known to use aluminum to form armor plates. See especially column 1, lines 5-17. Motivation to combine is Sanders, Jr. teaching that the light weight of aluminum allows for improved performance. To employ the teachings of Sanders, Jr. on the structure of Hudziak and have aluminum plate is considered to have been obvious to one having ordinary skill in the art.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hudziak in view of Hajdu.

Hudziak discloses an armor structure comprising substantially all claimed elements including two hinged armor plates, fastening means between the outer ends of the plates to maintain the shape of the structure, and handle means. Hudziak fails to show the handle means being an opening in the tops of the plates, although it does disclose having openings in the plates. Hajdu teaches that it is known place handle slots in the tops of hinged armor plates. Motivation to combine is the mere substitution of different handle means in order to provide a more convenient and sturdy carrying means. To employ the teachings of Hajdu on the structure of Hudziak and have handle slots is considered to have been obvious to one having ordinary skill in the art.

7. Claims 11, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hudziak.

Hudziak discloses an armor structure comprising substantially all claimed elements including two hinged armor plates, fastening means between the outer ends of the plates to maintain the shape of the structure, and handle means. Hudziak fails to disclose covering an "electromagnetic field apparatus". The choice of what to cover with the armor structure is not considered to be a patentable step, since no unexpected result is believed to occur by placing an electromagnetic

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apparatus under or behind the structure. It would be obvious to one having ordinary skill in the art to use the structure for anything small enough to be covered by the structure, in order to protect it from damage.

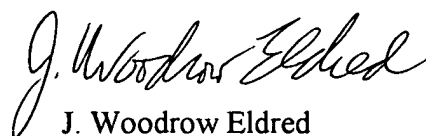
8. Claims 2-5, 13, 15, and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Zimm is cited as being of interest since it discloses an A-shaped plate armor structure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Woodrow Eldred whose telephone number is 703-306-4151. The examiner can normally be reached on Monday to Thursday, from 8:00 a.m. to 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 703-305-7421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



J. Woodrow Eldred  
Primary Examiner

AU 3644